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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,676	01/29/2001	Bertram Menz	01019	5431

7590

06/19/2002

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EXAMINER

GONZALEZ, JULIO C

ART UNIT PAPER NUMBER

2834

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/770,676

Applicant(s)

MENZ ET AL.

Examiner

Julio C. Gonzalez

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 28 March 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

✓ 1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lateral legs ending in outer sections penetrating a ground wall of the base as disclosed in claim 28 and the first outer section running along a wall that extend from a base plate and runs around its circumference and the first section crossing over into a center section and the opposite side as disclosed in claim 24 and the removable cover disclosed in claim 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

✓ 2. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance .

✓ 3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show how the cover makes the retaining element disengage the brush, the spring element 48, how the spring element 45 exerts a force on the brush (figure 12) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

✓ 4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

✓ 5. Claims 20-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

- ✓ In claim 20, the retaining element been towards a carbon brush mounted in the brush holder lacks written support from the specifications.
- ✓ In claim 24, the retaining element having a first outer section that extends from the base plate and runs around its circumference and the center section being perpendicular to the first section, the opposite side lacks written support from the specifications.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 18-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- ✓ In claim 18, it may seem like if the support plate and the base plate are the same plate? Are they? Also, what is meant by the direction perpendicular to the longitudinal axis of the carbon brush? The longitudinal axis of the carbon brush may be different, depending of the point of view.

✓ In claim 19, which is the removable cover? How is it that by removing the cover the retaining elements disengages the brush?

- ✓ In claim 20, a guide is perpendicular to the longitudinal axis, but with respect to what device is the longitudinal axis? What point of view?

✓ In claim 22, what becomes engaged in a recess? The pin? The brush? The brush holder?

✓ In claim 24, what is meant by the center section running perpendicular to the first section? Where would be the second section?

✓ In claim 28, what is meant by the lateral legs penetrating a ground wall or an intermediate wall? Are there two inventions been disclosed in the claim?

✓ In claim 29, what is meant by partially parallel? Slanted?

✓ In claim 30, what is considered a second portion that extends through the base or partition? What is considered a partition? Does the second portion penetrate the base (extends through)?

✓ In claim 31, what is meant by the metal element penetrating an outer section? What is considered an outer section? What is meant by the metal element "and/or" penetrated? It would seem like if the metal element is and is not connected to an outer section? Which one is it?

✓ In claim 32, are the lateral legs fastened to the base plate or to the intermediate wall? It may seem from the figures like if the lateral legs may be connected to the intermediate wall.

In order to advance prosecution in the merits, the Prior Art will be applied as best understood by the examiner.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Concannon in view of Lindner.

Concannon discloses a brush holder having a carbon brush B1, a brush guide and means N1 for retaining the brush in a retarded position against the spring forced (see abstract).

However, Concannon does not disclose having a movable retaining element wherein the brush may be released or engaged.

On the other hand, Lindner discloses for the purpose of improving the life expectancy of brushes, a retaining element 4 which in one position retains the brush and in another position releases the brush (see figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a brush holder as disclosed by Concannon and to modify the invention by using a retaining element for the purpose of improving the life expectancy of brushes as disclosed by Lindner.

10. Claim 20, 22, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Concannon and Lindner as applied to claim 18 above, and further in view of Redick.

The combined brush holding apparatus discloses all of the elements above. However, the combined brush holding apparatus does not disclose a pin that faces the brush.

On the other hand, Redick discloses for the purpose of improving the manufacturing process of dynamoelectric machines, a pin 108 on a side of the brush that upon retraction of the pin the brushes become engaged (see figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined brush holder as disclosed above and to modify the invention by using a pin for the purpose of improving the manufacturing process of dynamoelectric machines as disclosed by Redick.

11. Claim ~~21~~ is rejected under 35 U.S.C. 103(a) as being unpatentable over Concannon and Lindner and Redick as applied to claim 20 above, and further in view of Blank.

The combined brush holding apparatus discloses all of the elements above. However, the combined brush holding apparatus does not disclose that the spring exerts force against the retaining element towards the brush.

On the other hand, Blank discloses for the purpose of improving the parts of a dynamoelectric machines efficiently, a spring 23 which exerts force on a retaining element 22 against the brush (see figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined brush holder as disclosed above and to modify the invention by using the retaining element to exert force on the brush for the purpose of improving the parts of a dynamoelectric machines efficiently as disclosed by Blank.

12. Claims 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gingerich et al in view of Prell et al.

Gingerich discloses a brush guide 66 having a U-shaped with lateral walls on the side (see figure 3)

However Gingerich does not disclose having an intermediate wall between the base and the brush guide.

On the other hand, Prell et al discloses for the purpose of making a spring mechanism in which minimum space is occupy within the motor thus improving the maintenance of motors, a brush guide 24 with lateral walls parallel to the base and an intermediate wall 16 (see figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the brush holder as disclosed by Gingerich et al and to modify the invention by having an intermediate wall for the purpose of making a spring mechanism in which minimum space is occupy within the motor thus improving the maintenance of motors as disclosed by Prell et al.

Allowable Subject Matter

13. Claims 19 and 24-27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments with respect to claims 18-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371.

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The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



JOSEPH WAKS
PRIMARY EXAMINER

Jcg

June 14, 2002